

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

| | | |
|-----------------------------------------|---|------------------------|
| Brittany Dawn Zappone, |) | |
| on behalf of K.R.Z., a |) | |
| deceased minor, |) | |
| |) | |
| Plaintiff, |) | ORDER |
| |) | |
| vs. |) | |
| |) | |
| Carolyn Colvin, ¹ |) | |
| Acting Commissioner of Social Security, |) | Case No. 1:24-cv-00076 |
| |) | |
| Defendant. |) | |

Before the court is an “Unopposed Motion to Reverse and Remand” filed by Defendant on December 30, 2024. (Doc. No. 16). Plaintiff filed this action seeking judicial review of the Commissioner’s final decision finding the Special Needs Trust did not meet the requirements of an excluded trust and denying Supplemental Security Income benefits. Defendant requests the Court remand this matter to allow the Commissioner to conduct further proceedings pursuant to sentence four of 42 U.S.C. § 405(g) and Melkonyan v. Sullivan, 501 U.S. 89 (1991).

Section 405(g) permits the remand of a case to the Commissioner for further administrative action. In Melkonyan, 501 U.S. at 97-103, the Supreme Court stated that § 405(g) permits only two types of remand orders. The fourth sentence of § 405(g) authorizes a district court to enter “a judgment affirming, modifying, or reversing the decision of the [Commissioner], with or without remanding the case for rehearing.” Melkonyan, 501 U.S. at 97-101 (citing 42 U.S.C. § 405(g)). The fourth sentence of § 405(g) further states that the remand order may be entered upon the pleadings

¹ Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Carolyn Colvin is substituted for Martin O’Malley as the defendant in this suit.

and transcript of the record. 42 U.S.C. § 405(g). A sentence six remand is granted before the Commissioner files an answer or is granted in light of additional evidence upon a showing that there is good cause for failing to incorporate the additional evidence into a prior proceeding. Melkonyan, 501 U.S. at 100-01.

The court **GRANTS** Defendant's unopposed motion (Doc. No. 16). The court reverses and remands the ALJ's decision for further administrative proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g).

IT IS SO ORDERED.

Dated this 2nd day of January, 2025.

/s/ Clare R. Hochhalter

Clare R. Hochhalter, Magistrate Judge
United States District Court